

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

In re:

* **CASE NO. 15-32242**

JEFFREY S. ROSE
STEPHANIE L. ROSE

* Chapter 13

* Judge Guy R. Humphrey

MOTION TO COMPEL US BANK NATIONAL ASSOCIATION, NEW PENN FINANCIAL LLC., GREENTREE SERVICING, LLC. AND SHELLPOINT MORTGAGE SERVICING TO ADJUST THEIR RECORDS PER THE RESPONSE TO NOTICE OF FINAL CURE PAYMENT FILED 10/02/2020 (DOC. 79) AND FOR DAMAGES AND ATTORNEY FEES.

- 1.) The Debtors are the owners of the real estate located at 10298 Greenbush Rd., Camden Ohio 45311.
- 2.) The Debtors filed Ch. 13 on July 10, 2015, Case No. 15-32242. The Debtors were in arrears on the mortgage at the time of filing.
- 3.) NEW PENN FINANCIAL, LLC. held the note and mortgage on the property at that time.
- 4.) A proof of claim was timely filed by NEW PENN FINANCIAL, LLC. in the amount of \$11,981.09. That amount was the arrearage on the loan (Court Claim #2).

- 5.) The Debtors successfully completed their Ch 13 Plan and were granted a discharge on October 30, 2020.
- 6.) The claim of NEW PENN FINANCIAL, LLC. was paid in full and the Trustee filed a Notice of Final Cure Payment on September 11, 2020 (Doc. 78).
- 7.) A Response to the Notice of Final Cure was filed by US Bank National Association on October 2, 2020 (Doc. 79). The mortgage was deemed current by the Creditor.
- 8.) The Debtors resumed their regular mortgage payments of \$741.48 to Shellpoint Mortgage Servicing in October 2020.
- 9.) Despite the fact that the mortgage was deemed current in October 2020 by the Creditor and that the Debtors resumed their payments directly to the Creditor the Debtors have been receiving statements from the Creditor that they are \$3,222.40 in arrears.
- 10.) Numerous attempts have been made by Debtors and their Counsel to remedy this situation. All attempts have been thwarted.
- 11.) Shellpoint has reported the "alleged" arrearage to the credit reporting agencies which has resulted in adverse consequences to the Debtors' credit rating.
- 12.) Debtors request that the proper Creditor come forward in this case and that the Court Order that the mortgage is current.
- 13.) As the Creditors have refused to remedy this situation and have caused actual damage to Debtors, in lowering their credit rating, Debtors request that the Court award punitive damages as well as attorney fees.

Respectfully submitted:

/s/ Michael G. Weller

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Attorney for Debtors

NOTICE OF FILING MOTION
WITH 21 DAY NOTICE

The Debtors have filed papers with the Court to ORDER the adjustment of records as well as damages and attorney fees.

Your rights may be affected. You should read these papers and discuss them with your attorney, if you have one in this Bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the Motion, then on or before **twenty-one (21) days from the date set forth in the Certificate of Service for the Motion**, you must file with the Court a response explaining your position by mailing your response by regular U.S. Mail to: Clerk, United States Bankruptcy Court, 120 West Third Street, Dayton, Ohio 45402 OR your attorney must file a response using this Court's ECF system.

The Court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) ordinary US Mail to the undersigned attorney at the address listed below together with all the parties listed on the service list, which appears on the last pages of the Motion, which is attached hereto at the address listed therein.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion/Objection and may enter an order granting that relief without further hearing or notice.

Respectfully submitted:

/s/ Michael G. Weller

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Attorney for Debtors

CERTIFICATE OF SERVICE

A copy hereof was electronically served on the John J. Jansing, Chapter 13 Trustee, and the Office of the U.S. Trustee, through the Court's transmission facilities, at their email addresses registered with the Court, and, that the following persons were mailed a copy of the Motion by ordinary U.S. mail, postage prepaid, this 25th day of February 2021 addressed to:

Katherine D. Carpenter
Attorney for
Greene Tree Servicing, LLC.
Reimer Law Co.
30455 Solon Rd.
Solon, OH 44135

Jeffrey and Stephanie Rose
10298 Greenbush Road
Camden, Ohio 45311

Seth Greenhill
Attorney for US Bank National Association
And New Penn Financial, LLC.
Padgett Law Group
6267 Old Water Oak Rd., Ste 203
Tallahassee, FL 32312

CERTIFIED MAIL:

Shellpoint Mortgage Servicing
PO Box 51850
Livonia, MI 48151-5850

SN Servicer Corp.
323 5th St.
Eureka, CA 95501

/s/ Michael G. Weller
MICHAEL G. WELLER, Attorney for Debtors

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